

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

NOT FOR PUBLICATION

-against-

MEMORANDUM & ORDER

09-CR-493 (KAM)

SAURI MOREL,

Defendant.

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MATSUMOTO, United States District Judge:

Defendant Sauri Morel ("defendant" or "Morel") is charged in a July 2009 indictment with knowingly and intentionally importing into the United States five kilograms or more of a substance containing cocaine, and knowingly and intentionally attempting to distribute and possess with intent to distribute five kilograms or more of a substance containing cocaine, in violation of Title 21 U.S.C. Sections 952(a), 960(a)(1), 960(b)(1)(B)(ii), 841(a)(1), 846, and 841(b)(1)(A)(ii)(II) and Title 18 U.S.C. Sections 2 and 3551 *et seq.* (See ECF No. 7, Indictment.) Pending before the court is Morel's motion for reconsideration (ECF No. 72, Mot. for Recons. of Suppression Hearing Ruling ("Mot. Recons.)) of this court's June 18, 2010 Memorandum & Order, which granted in part and denied in part Morel's motion to suppress his post-arrest statements (ECF No. 40, Order Granting in Part and Denying in

Part Mot. to Suppress ("Suppression Order")). The government did not submit a response.

Defendant filed a motion to suppress his post-arrest statements on March 19, 2010. (ECF No. 23, Mot. to Suppress Statements and Cell Phone Evidence Seized; ECF No. 27, Def. Affirmation in Support of Mot. to Suppress.) The court held a Suppression Hearing on April 19 and 22, 2010. (See ECF Minute Entries dated 4/19/10 and 4/22/10.) Defendant filed a post-hearing letter in support of his motion to suppress. (ECF No. 34, Def. Post-Hearing Ltr.) In his post-hearing submission, Morel argued that all post-arrest statements must be suppressed, in part, because they were obtained in violation of his Fifth Amendment right to counsel. (*Id.* at 6-7.) Defendant argued that the testimony at the Suppression Hearing supported the conclusion that all post-arrest statements were made after Morel invoked his right to counsel. (*Id.* at 6 ("Reviewing [Agent] Reed's testimony on the point it is clear based on repeated questioning and responses that that [sic] the request [for counsel] came prior to the inculpatory statement.")).) By an Order dated June 18, 2010, the court granted in part and denied in part defendant's motion to suppress. (See Suppression Order.) Specifically, the court suppressed Morel's statement admitting to knowing that the shipments he was picking up contained narcotics, finding that the statement was made after

Morel invoked his right to counsel and that the agents continued to question Morel without an attorney present after that invocation, in violation of the Fifth Amendment. (*See id.*) The court denied the motion to suppress the remaining post-arrest statements, finding that they were made prior to the invocation of counsel and after Morel knowingly and voluntarily waived his *Miranda* rights. (*See id.*) The unsuppressed statements include Morel's admission that he was paid \$5,000 to pick up the shipment from the John F. Kennedy International Airport ("JFK") on June 21, 2009. (*See id.*)

In his motion for reconsideration of the Suppression Order, filed on October 8, 2010, Morel sets forth substantively identical arguments contained in his prior submissions. (*See* Def. Mot. Reconsideration.) Defendant once again reviews the Suppression Hearing testimony, and argues that the testimony is more consistent with a finding that the statement that Morel was paid \$5,000 to pick up the shipment, if it was at all made, was made after Morel invoked his right to counsel. (*See id.*)

"The standard for granting [a motion for reconsideration] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked - matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." *Shrader v. CSX Transp., Inc.*, 70 F.3d

255, 257 (2d Cir. 1995); see *United States v. Gunn*, 366 F. App'x 215, 220 (2d Cir. 2010) (applying standard from *Shrader* to a criminal case); *United States v. Basciano*, No. 05-cr-060, 2009 U.S. Dist. Lexis 3518, at *2-*3 (E.D.N.Y. Jan. 20, 2009) (stating that "when deciding motions for reconsideration in criminal matters, courts in this district have resolved such motions according to the same principles that apply in the civil context," and applying the standard from *Shrader* (internal quotation marks and citation omitted)). By merely reiterating the same arguments previously rejected by the court, and by failing to cite any authority the court overlooked that could reasonably be expected to alter the court's conclusion, Morel fails to meet this strict standard. Moreover, the court has again reviewed the Suppression Hearing transcripts and, as previously determined, defendant's statement that he was paid \$5,000 to pick up the shipment at JFK on June 21, 2009 was made after he was twice provided *Miranda* warnings and before he requested counsel.

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For these reasons, Morel's motion for reconsideration
is denied.

SO ORDERED.

Dated: October 28, 2010
Brooklyn, New York

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KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York